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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,425

02/14/2006

Jurgen Kuhr

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05/19/2008

ROTHWELL, FIGG, ERNST & MANBECK, P.C.

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WASHINGTON, DC 20005

EXAMINER

CHENEVERT, PAUL A

ART UNIT

PAPER NUMBER

3612

NOTIFICATION DATE

DELIVERY MODE

05/19/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No. 10/568,425	Applicant(s) KUHR, JURGEN	
	Examiner Paul A. Chenevert	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/14/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 20-24 is/are rejected.
- 7) ☒ Claim(s) 8-19 and 25-27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2006 02 14</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “42” has been used to designate both the conveying spring element in Figure 8 and the snap element in Figure 9.
3. The drawings are objected to because of the following minor informalities:
 - a. Reference numbers that employ arrow tips on their lead lines should not touch any one part, yet they should point in the general location of the collection of the parts according to 37 CFR 1.84(r)(1). See, especially, reference number 34.
 - b. The lead line for the locking means (11) in Figure 3 should be adjusted to touch the rear roof section (9’) and not the movable roof section (7’).
 - c. Reference number 27 should be added to Figure 8 to illustrate the sleeve.
4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet”

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

6. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) ~~STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.~~
- (d) ~~THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.~~
- (e) ~~INCORPORATION BY REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.~~
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) ~~SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino~~

~~acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).~~

7. The disclosure is objected to because of the following informalities:
 - a. Page 2, line 20, "in accordance with the characteristics of the patent claim 1," should be deleted.
 - b. Page 3, line 6, "according to the characteristics of the patent claim 8" should be deleted.
 - c. Page 3, line 23, "in accordance with patent claim 13" should be deleted.
 - d. Page 4, line 4, "according to the characteristics of the patent claim 1" should be deleted.
 - e. Page 4, line 6, "in accordance with the characteristics of the patent claims 8 or 13" should be deleted.
 - f. It is thought that is the Figures are designated by "Fig." in the drawings, then "III." Should be changed to "Fig." In the specification at all occurrences.
 - g. Page 6, line 19, "lateral support 7" should be changed to "lateral support 8".
 - h. Page 11, line 4, "sleeve 27" should be changed to "tapered section 31".
 - i. Page 11, line 5, "receiving taper, i.e." should be inserted before "recess cone 33".
 - j. Page 12, line 4, "spring" should be inserted before "element 42".
 - k. Page 13, line 23, "locking means 11" should be changed to "locking means 11' "
 - l. Page 14, line 26, the first occurrence of "42" should be deleted.
 - m. Page 15, line 10, "spring 49" should be changed to "spring 47".
 - n. Page 19, lines 16 & 17, "end" should be added after "lever element".

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- o. Abstract, line 1, “The invention relates to a motor vehicle comprising” should be changed to “A motor vehicle having”.
- p. Abstract, lines 6, 7, 15, 21 & 22, “said” should be changed to “the”.
- q. Abstract, line 10, “means of” should be deleted.
- r. Abstract, line 16, “centring” should be changed to “centering”.

Appropriate correction is required.

Claim Objections

- 8. Claims 1-27 are objected to because of the following informalities:
 - a. Claim 1, line 2, “has” should be inserted after “the vehicle and”.
 - b. Claim 2, line 4, “rolls” should be changed to “rollers”.
 - c. Claim 8, preamble line 1, “having at least one movable roof section (7) which when closed abuts a windshield frame (3) at the front of the vehicle and has lateral outer areas that respectively abut a support (8), with the supports being at least partly relocatable in lateral columns (5) of the windshield frame (3) to form an open roof section (2A), in particular a motor vehicle” should be deleted.
 - d. Claim 10, line 2, “of the locking lever” should be inserted after “end (35A)” or else there is an antecedent basis problem.
 - e. Claim 10, line 3, “of the locking lever” should be inserted after “end (35B)” or else there is an antecedent basis problem.
 - f. Claim 10, line 3, “with a with a” should be changed to “with a”.
 - g. Claim 11, line 2, “sleeve (29)” should be changed to “sleeve (27)”.

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- h. Claims 11-15, all occurrences of “spring element (42)” need to reflect the change to the drawings (see objection to drawings above).
- i. Claim 11, line 5, “(27)” should be inserted after “sleeve”.
- j. Claim 13, preamble line 1, “having at least one movable roof section (7') which in a closed state abuts a windshield frame (3) at the front of the vehicle and has lateral outer areas that respectively abut a support (8), with the supports (8) being at least partly relocatable in lateral columns (5) of the windshield frame (3) to form an open roof section (2A), in particular motor vehicle” should be deleted.
- k. Claim 13, line 6, “its end (31)” should be changed to “the end (31) of the support”.
- l. Claim 17, line 3, “the” should be inserted before “longitudinal direction”.
- m. Claim 23, line 3, “it” should be changed to “the support”.
- n. It is thought that claim 25 should depend from claim 1, since it is not necessary to depend from claim 20.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 19, 21, 25 & 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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a. Claims 19, 21 & 25 recite the limitation “fastening elements”. There is insufficient antecedent basis for this limitation in the claim. The fastening elements were introduced in claims 8 & 13, but are not present in claim 1. It is thought that these claims should be made dependent upon either claim 8 or 13, or else the fastening elements should be introduced into claim 1 and the claims 8 & 13 edited accordingly.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 2, 20, 22-24, and claim 21 as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhr (DE 202 01 411 U1; 25APR02) in view of Christofferson (US 1,541,791 A; 22APR21).

Kuhr discloses a motor vehicle having at least one displaceable roof section which when closed abuts a windshield frame at the front of the vehicle and lateral outer areas that respectively abut a support, with at least part of the supports being displaceable in lateral columns of the windshield frame to form an open roof section, characterized in that the supports are guided in a receiving channel formed by the assigned lateral column of the windshield frame in the area of the end of said supports at the front of the vehicle and in the area of said supports lying in the exit region from the upper end of the lateral column.

However, Kuhr does not expressly disclose means of a roller bearing without play and at a defined distance from the wall of the receiving channel.

Kristofferson discloses a roller bearing (44) without play and at a defined distance from the wall of a receiving channel (30).

Kuhr and Christofferson are analogous art because they are from the same field of endeavor, that is the sliding of cylindrical posts into recesses.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the motor vehicle of Kuhr, to employ roller bearing means, as taught by Christofferson.

The suggestion/motivation for doing so would have been to allow for the support to move into and out of the A-pillar with little resistance, thus allowing for a smaller extension motor, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the motor vehicle of Kuhr by combining a roller bearing at the front of the support with three coplanar rollers with the support to obtain the invention as specified in claim 1, as taught by the prior references' motivation, and not hindsight from the Applicant's disclosure.

13. Claims 1 & 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhr in view of Meier (US 3,749,455 A; 31JUL73).

Kuhr discloses a motor vehicle having at least one displaceable roof section which when closed abuts a windshield frame at the front of the vehicle and lateral outer areas that respectively abut a support, with at least part of the supports being displaceable in lateral columns of the windshield frame to form an open roof section, characterized in that the supports

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are guided in a receiving channel formed by the assigned lateral column of the windshield frame in the area of the end of said supports at the front of the vehicle and in the area of said supports lying in the exit region from the upper end of the lateral column.

However, Kuhr does not expressly disclose means of a roller bearing without play and at a defined distance from the wall of the receiving channel.

Meier discloses a roller bearing (2, 3 & 4) without play and at a defined distance from the wall of the receiving channel (8).

Kuhr and Meier are analogous art because they are from the same field of endeavor, that is the sliding of cylindrical posts into recesses.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the motor vehicle of Kuhr, to employ roller bearing means, as taught by Meier.

The suggestion/motivation for doing so would have been to allow for the support to move into and out of the A-pillar with little resistance, thus allowing for a smaller extension motor, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the motor vehicle of Kuhr by combining roller bearings assigned to the area where the support exits the lateral column with the drive means to obtain the invention as specified in claim 1, as taught by the prior references' motivation, and not hindsight from the Applicant's disclosure.

Allowable Subject Matter

14. Claims 8-18 & 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not show or make obvious Applicant's locking means nor the servo motor.

16. Claims 19, 25 & 26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Chenevert whose telephone number is (571)272-6657.

The examiner can normally be reached on Mon-Fri (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. Glenn Dayoan/
Supervisory Patent Examiner, Art Unit 3612

Paul A. Chenevert
Examiner
Art Unit 3612

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